					1
Fill	in this information to ident	ify your case:			
Uni	ted States Bankruptcy Court	for the:			
EAS	STERN DISTRICT OF NEW	YORK, CENTRAL ISLIP DIVISION			
Cas	se number (if known)		Chapter	11	
			<u> </u>		Check if this an amended filing
<b>~</b> (	·				
	<u>ficial Form 201</u> Dluntarv Petiti	on for Non-Individu	als Fi	ling for Bank	ruptcv 06/22
lf m	ore space is needed, attach		p of any ad	ditional pages, write the d	ebtor's name and the case number (if known).
1.	Debtor's name	FR-AM Two LLC			
2.	All other names debtor used in the last 8 years				
	Include any assumed names, trade names and doing business as names				
3.	Debtor's federal Employer Identification Number (EIN)	88-2232487			
4.	Debtor's address	Principal place of business		Mailing addres business	es, if different from principal place of
		64 West End Road			
		East Hampton, NY 11937		<u> </u>	
		Number, Street, City, State & ZIP Code		P.O. Box, Numl	ber, Street, City, State & ZIP Code
		Suffolk County		Location of pri	incipal assets, if different from principal
		County		432 Park Ave	enue New York, NY 10022
				Number, Street	, City, State & ZIP Code
5.	Debtor's website (URL)				
6.	Type of debtor	Corporation (including Limited Liab Partnership (excluding LLP) Other. Specify:	ility Compan	y (LLC) and Limited Liability	y Partnership (LLP))

Debt	or FR-AM Two LLC		Case number (if known)			
	Name					
7.	Describe debtor's business	A. Check one:				
			usiness (as defined in 11 U.S.C. § 101(27A))			
		Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))				
		Railroad (as defined in 11 U.S.C. § 101(44))				
		Stockbroker (as defined in 11 U.S.C. § 101(53A))				
		Commodity Broker (as defined in 11 U.S.C. § 101(6))  Clearing Bank (as defined in 11 U.S.C. § 781(3))				
		None of the ab	• • • • • • • • • • • • • • • • • • • •			
		Mone of the ab	ove			
		B. Check all that ap	pply			
		Tax-exempt en	tity (as described in 26 U.S.C. §501)			
		☐ Investment cor	mpany, including hedge fund or pooled investme	nt vehicle (as defined in 15 U.S.C. §80a-3)		
		☐ Investment adv	visor (as defined in 15 U.S.C. §80b-2(a)(11))			
		C NAICS (North A	mariana Industry Classification System) 4 digit a	ada that haat dagarihaa dahtar Caa		
			merican Industry Classification System) 4-digit co urts.gov/four-digit-national-association-naics-cod			
		5313				
8.	Under which chapter of the Bankruptcy Code is the	Check one:				
	debtor filing?	☐ Chapter 7				
	A debtor who is a "small business debtor" must check the first sub-box. A debtor as defined in § 1182(1) who elects to proceed under subchapter V of chapter 11 (whether or not the debtor is a	Chapter 9	and all that are the			
		Chapter 11. Ch	neck <b>all</b> that apply:			
				defined in 11 U.S.C. § 101(51D), and its aggregate debts owed to insiders or affiliates) are less than		
			\$3,024,725. If this sub-box is selected, att	ach the most recent balance sheet, statement of		
	(whether or not the debtor is a "small business debtor") must		exist, follow the procedure in 11 U.S.C. §	ral income tax return or if any of these documents in 116(1)(B).	do not	
	check the second sub-box.		The debtor is a debtor as defined in 11 U.	S.C. § 1182(1), its aggregate noncontingent liquida	ated	
				affiliates) are less than \$7,500,000, <b>and it choose r 11.</b> If this sub-box is selected, attach the most rec		
			balance sheet, statement of operations, ca	sh-flow statement, and federal income tax return, or		
			of these documents do not exist, follow the	procedure in 11 U.S.C. § 1116(1)(B).		
			A plan is being filed with this petition.			
			accordance with 11 U.S.C. § 1126(b).	petition from one or more classes of creditors, in		
				rts (for example, 10K and 10Q) with the Securities or 15(d) of the Securities Exchange Act of 1934. Fi		
			Attachment to Voluntary Petition for Non-II	ndividuals Filing for Bankruptcy under Chapter 11 (		
			Form 201A) with this form.			
			The debtor is a shell company as defined	in the Securities Exchange Act of 1934 Rule 12b-2		
		Chapter 12				
9.	Were prior bankruptcy cases filed by or against the	No.				
	debtor within the last 8	Yes.				
	years?					
	If more than 2 cases, attach a separate list.	District _	When	Case number		
		District _	When	Case number		

Debt	111741111111111111111111111111111111111		Case number (if kno	
10.	Name  Are any bankruptcy cases pending or being filed by business partner or an affiliate of the debtor?			
	List all cases. If more than 1	ı.		
	attach a separate list	Debtor District  See Attachmet	nt When	Relationship Case number, if known
11.	Why is the case filed in this district?	preceding the date of this petition	cipal place of business, or principal asse n or for a longer part of such 180 days th ebtor's affiliate, general partner, or partne	•
12.	Does the debtor own or have possession of any real property or personal property that needs immediate attention?	Why does the property nee	erty that needs immediate attention. Attac ed immediate attention? (Check all that cose a threat of imminent and identifiable	apply.)
		☐ It needs to be physically☐ It includes perishable goo	secured or protected from the weather.  ods or assets that could quickly deteriora, meat, dairy, produce, or securities-relat	te or lose value without attention (for example, ed assets or other options).
		Is the property insured?  No Yes. Insurance agency Contact name Phone	Number, Street, City, State & ZIP Cod	de
	Statistical and admin	istrative information		
13.	Debtor's estimation of available funds		distribution to unsecured creditors. Denses are paid, no funds will be available	e to unsecured creditors.
14.	Estimated number of creditors	<ul><li>☐ 1-49</li><li>☐ 50-99</li><li>☐ 100-199</li><li>☐ 200-999</li></ul>	1,000-5,000 5001-10,000 10,001-25,000	25,001-50,000 50,001-100,000 More than100,000
15.	Estimated Assets	\$0 - \$50,000 \$50,001 - \$100,000 \$100,001 - \$500,000 \$500,001 - \$1 million	\$1,000,001 - \$10 million \$10,000,001 - \$50 million \$50,000,001 - \$100 million \$100,000,001 - \$500 million	\$500,000,001 - \$1 billion \$1,000,000,001 - \$10 billion \$10,000,000,001 - \$50 billion More than \$50 billion
16.	Estimated liabilities	\$0 - \$50,000 \$50,001 - \$100,000	\$1,000,001 - \$10 million \$10,000,001 - \$50 million	\$500,000,001 - \$1 billion \$1,000,000,001 - \$10 billion

Debtor	FR-AM Two LLC		Case number (if known)	
	Name			
		\$100,001 - \$500,000 \$500,001 - \$1 million	\$50,000,001 - \$100 million \$100,000,001 - \$500 million	\$10,000,000,001 - \$50 billion  More than \$50 billion

Debtor	FR-AM Two LLC		Cas	se number (if known)
	Name			
	Request for Relief, D	eclaration, and Signatures		
WARNI		s a serious crime. Making a false statement ii or both. 18 U.S.C. §§ 152, 1341, 1519, and		cruptcy case can result in fines up to \$500,000 or imprisonmen
of a	claration and signature authorized resentative of debtor	I have been authorized to file this petition	on behalf of the debtor. etition and have a reasor foregoing is true and co	11, United States Code, specified in this petition.  nable belief that the information is true and correct.  orrect.  Harry Macklowe  Printed name
18. Sigi	nature of attorney X	Signature of attorney for debtor  Kevin Nash Printed name  Goldberg Weprin Finkel Goldstein Firm name  125 Park Ave New York, NY 10017-5690  Number, Street, City, State & ZIP Code  Contact phone		Date October 11, 2023  MM / DD / YYYY  nash@gwfglaw.com
		NY		
		Bar number and State		

Debtor	FR-AM Two LLC		Case numb	er (if known)
	Name			
Fill in th	nis information to identify your case	:		
United S	States Bankruptcy Court for the:			
EASTER	RN DISTRICT OF NEW YORK, CENT	RAL ISLIP DIVISION		
Case nu	ımber (if known)		Chapter <b>11</b>	
				Check if this an amended filing
		FORM 201.	VOLUNTARY PETITION	
		Pending Bank	ruptcy Cases Attachment	
Debtor	432 FF&E LLC		Relationship to you	Affiliate
District	Eastern New York	When _10/11/	Case number, if kno	wn
Debtor	432 FF&E Mezz LLC		Relationship to you	Affiliate
District	Eastern New York	When 10/11/	23 Case number, if kno	wn

When 10/11/23

Relationship to you

Case number, if known

FR-AM One LLC

Eastern New York

Debtor

District

**Affiliate** 

#### COMPANY RESOLUTIONS IN SUPPORT OF CHAPTER 11 FILINGS

WHEREAS, in accordance with their respective Operating Agreements, a special meeting of FR-AM Two LLC, FR-AM One LLC, 432 FF&E Mezz LLC and 432 FF&E LLC (collectively the "Companies") was called and convened on October 10, 2023, and upon motion duly made and carried, the following resolutions were adopted:

**RESOLVED**, each of the Companies is authorized to file a separate voluntary petition for relief under Chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"), in the United States Bankruptcy Court for the Eastern District of New York; and it is further

**RESOLVED**, that Harry Macklowe, as the manager of the Companies, is authorized to act on behalf of each of the Companies to (a) execute the Chapter 11 petitions and all other related papers, and other documents, and cause the same to be filed with the Bankruptcy Court; (b) cause the Companies to file all schedules, statements, lists, motions, applications and other papers necessary or desirable to prosecute the respective Chapter 11 cases and achieve confirmation of a plan (or plans) of reorganization; and (c) pursue a restructuring of the Companies' respective debts and obligations; and it is further

**RESOLVED**, that the Companies are each authorized to retain the law firm of Goldberg Weprin Finkel Goldstein LLP as counsel in the Chapter 11 case under a general retainer

Dated: New York, New York October 10, 2023

> FR-AM One LLC FR-AM Two LLC 432 FF&E LLC 432 FF&E Mezz LLC

By: <u>/s/ Harry Macklowe</u> Name: Harry Macklowe

Title: Manager

	Debtor.	
432 FF&E LLC,		Case No.
In re:		Chapter 11
	Debtor.	
FR-AM One LLC,		Case No.
In re:	X	Chapter 11
	Debtor.	
432 FF&E Mezz LLC,		Case No.
In re:	A	Chapter 11
	Debtor.	
FR-AM Two LLC,		Case No.
In re:	Α	Chapter 11
EASTERN DISTRICT OF NE	EW YORK	

# CONSOLIDATED DECLARATION PURSUANT TO LOCAL BANKRUPTCY RULE 1007-4

Harry Macklowe declares the following under penalties of perjury pursuant to 28 U.S.C. §1746:

1. I am the sole member or trustee of the membership interest in each of the debtors, FR-AM Two LLC ("FR-AM Two"), 432 FF&E Mezz LLC ("432 Mezz"), FR-AM One LLC ("FR-AM One") and 432 FF&E LLC ("432 Owner") (collectively, the "Debtors"). The first two Debtors (FR-AM Two and 432 Mezz) are stock holding companies, holding the 100% membership interests in FR-AM One and 432 Owner, respectively (the "Membership Interests"). In turn, FR-AM One along with 432 Owner, together own three luxury apartments in the

building at 432 Park Avenue, New York, NY (the "<u>Property</u>") identified as units 78B and 28H (owned by FR-AM One) and 78A (owned by 432 Owner) (collectively, the "Units").

- 2. I respectfully submit this Consolidated Declaration in support of the Debtors' respective Chapter 11 cases, which are filed as related matters and will be the subject of a motion for joint administration. The purpose of this Declaration is to summarize the events leading up to the need for Chapter 11 relief, the Debtors' capital structure and the Debtors' exit strategy to preserve the equity in the Units.
- 3. I am a Florida resident. Because the Debtors have no active business offices, the Debtors have venued their cases in the Eastern District of New York in care of my home in East Hampton, NY. I also maintain a home in one of the Units (78B).

#### Overview

- 4. Of immediate concern, the Units are subject to imminent UCC Article 9 foreclosure sales involving the Membership Interests held by FR-AM Two and 432 Mezz. The auction is scheduled for October 11, 2023 at 2:30 p.m. and has been noticed pursuant to pledge agreement made with 56<sup>th</sup> and Park (NY) Owner LLC (the "Lender") to secure two mezzanine loans in the respective principal amounts of \$31,622,858.28 and \$14,293,940.31, plus disputed interest and other charges (the "Mezzanine Loans"). The Mezzanine Loans were made in connection with the acquisition of the Units in May of 2022.
- 5. The foreclosure auction sale is proceeding despite a pending arbitration case commenced by the Debtors and me before the American Arbitration Association (the "Arbitration"). In the Arbitration, we seek to enforce various rights against the co-developer of the Property, CIM Fund III L.P. (the "CIM Fund") as successor to 56<sup>th</sup> and Park (NY) Holdings

LLC ("<u>Holdings</u>") and other related CIM Group entities regarding alleged violations of the parties' Contingent Purchase Price Agreement, as amended (the "<u>CPPA</u>").

- 6. I was the original developer of the Property which was occupied by the former Drake Hotel prior to demolition and redevelopment into one of the City's most prestigious residential condominium buildings. My interest in the project was sold in 2010 to the codeveloper, Holdings, which was succeed by the CIM Fund. In connection with the sale, the Debtors and I am entitled to certain contingent payments pursuant to the CPPA after the codeveloper recouped its capital investment and received a fifteen percent return. These entitlements are set forth in Article 6 of the CPPA which, *inter alia*, contains well-defined waterfall provisions for payments upon the future sale of the condominium units and other income from the project. Under Section 6.1, the co-developer is entitled to receive the first tier of the sale proceeds and the Debtors and I are entitled to receive the second tier.
- 7. In 2011, the CPPA was amended to allow the CIM Fund to replace Holdings as the co-developer and bring additional capital into the transaction without negating the Debtors' and my rights under the waterfall provisions. Indeed, under Section 6.1(b) of the amended CPPA, the Debtors are entitled to the first 20% of the proceeds once the CIM Fund (as successor to Holdings) has recouped its own investment and received a 15% return. After the CIM Fund earns a 20% return, the Debtors and my compensation jumps to 50% of the proceeds.
- 8. However, in the years that followed, we assert that the CIM Fund diverted revenues and distributions rightfully owed under the waterfalls through the creation of three other co-investor entities. Moreover, the CIM Fund placed itself in the position of the managing member of the co-investor entities so that it earned a portion of the proceeds paid to the co-investor entities, as well as paid itself significant management fees, all with the intent of

receiving monies outside of the waterfall provisions, negatively impacting the ability of the CIM Fund to make rightful distributions to the Debtors and me pursuant to the terms of the amended CPPA.

- 9. In view of the foregoing, it is alleged in the Arbitration that the Debtors are owed substantial unpaid revenues and distributions amounting to tens of millions of dollars and potentially aggregating more than the underlying mortgage debt. Unfortunately, the Debtors were unable to obtain a stay of the Article 9 UCC foreclosure sales pending completion of the Arbitration, based upon, *inter alia*, a ruling that the Lender, although affiliated or related to the CIM Fund as co-developer and otherwise part of the CIM Group, did not sign the operative CPPA or amendment and, therefore, was not bound to participate in the Arbitration. Hence, the litigation is proceeding piecemeal without the benefit of any stay in the state court.
- 10. The Debtors face the prospect of forfeiting their respective rights and interests in the Units before they are able to obtain a proper determination of the amount of their claims in the Arbitration. The Debtors intend to continue with the Arbitration, which is scheduled to be heard in March, 2024. There have been no payments received under the CPPA except an advance of \$15 million, which was reduced to \$12,500,000, event though it is my belief that the CIM Fund has realized approximately \$900 million on the project.
- 11. The filing of the Chapter 11 petitions provides the opportunity to address significant claims arising under the CPPA in conjunction with the disposition of the mortgage debt in a centralized forum with the view of preserving the substantial equity in the Units. While the Lender may not be a party to the CPPA or the amendments thereto, the payments and distributions due under the CPPA were certainly intended as an important funding source to satisfy the underlying mortgage and mezzanine debt.

12. The Debtors intend to pursue a reorganization strategy predicated upon the refinancing of the Units perhaps in connection with a sale of Unit 78A. The purpose of a refinancing or sale is to generate a pool of funds of approximately \$30 million to be set aside for the Lender while the Debtors pursue claims in the Arbitration. The Units themselves have very little mortgage debt and are believed to have an aggregate value of approximately \$78 million.

### **Local Rule 1007-4 Disclosures**

- 13. Pursuant to Local Rule 1007-4(a)(iv) and (v), no committees were formed prior to the filing of the Petitions.
- 14. Pursuant to Local Rule 1007-4(a)(vi), the Debtors share common creditors, as per the list of the names and address attached hereto.
- 15. Pursuant to Local Rule 1007-4(a)(vii), as noted, the sole secured creditor of all four Debtors is the Lender, which holds a pledge against the respective membership interests held by FR-AM Two in FR-AM One and by 432 Mezz in 432 Owner, as well as modest mortgage liens against the Units totaling \$498,000.
- 16. Pursuant to Local Rule 1007-4(a)(viii), a summary of the assets and liabilities of each of the Debtors will be set forth in their respective Schedules to be filed shortly.
- 17. Pursuant to Local Rule 1007-4(a)(ix), the undersigned is the 100% member of FR-AM Two and a trustee for the membership interest of 432 FF&E Mezz LLC. These entities in turn are the sole members of FR-AM One and 432 Owner, respectively.
- 18. Pursuant to Local Rule 1007-4(a)(x), the Lender alleges that it holds the membership interests in FR-AM One and 432 Owner pursuant to various pledges.
- 19. Pursuant to Local Rule 1007-4(a)(xi), neither FR-AM Two nor 432 Mezz owns any real property. FR-AM One and 432 Owner are the owners of the Units, as noted above. The

Units are believed to have an aggregate fair market value of approximately \$78 million, well in

excess of the Mezzanine Loans and mortgage debt without even considering the Debtors'

substantial entitlements under the CPPA, as amended.

20. Pursuant to Local Rule 1007-4(a)(xii), the books and records of each of the

Debtors are maintained by me at my home at 64 West End Road, East Hampton, NY.

21. Pursuant to Local Rule 1007-4(a)(xiii), a schedule of pending lawsuits is attached

hereto.

22. Pursuant to Local Rule 1007-4(a)(xiv), I serve as the manager of each the Debtors

without compensation.

Pursuant to Local Rule 1007-4(a)(xv), none of the Debtors has any current 23.

employees.

24. Pursuant to Local Rule 1007-4(a)(xvi), none of the Debtors anticipate any

significant income or expenses in the next 90 days.

Dated: New York, NY

October 11, 2023

/s/ Harry Macklowe

6

UNITED STATES BANKRUPTCY COURT EASTERN DISTRICT OF NEW YORK	
In re:	Chapter 11
FR-AM Two LLC,	Case No.
Debtor.	

#### LIST OF LAWSUITS

1. 56th And Park (NY) Owner, LLC, et al. v. 440 Park Avenue Owner Associates, LLC, et al. Supreme Court of the State of New York, New York County Index No. 652903/2023
Stay of Arbitration

Attorneys for Plaintiffs: Robert A. Sacks, Esq. Sullivan & Cromwell LLP 125 Broad Street New York, New York 10004

Attorneys for Defendants: Joshua Irwin Schiller, Esq. Boies Schiller Flexner LLP 55 Hudson Yards New York, NY 10001

2. 440 Park Avenue Owner Associates, LLC et al. v. 56th And Park (NY) Owner, LLC et al. American Arbitration Association
Arbitration

Attorneys for Respondents: Robert A. Sacks, Esq. Sullivan & Cromwell LLP 125 Broad Street New York, New York 10004

Attorneys for Claimants: Joshua Irwin Schiller, Esq. Boies Schiller Flexner LLP 55 Hudson Yards New York, NY 10001 3. Non-judicial UCC Article 9 Foreclosure 56th And Park (NY) Owner, LLC v. FR-AM Two LLC

Attorneys for Plaintiffs: Robert A. Sacks, Esq. Sullivan & Cromwell LLP 125 Broad Street New York, New York 10004

Dated: New York, New York October 10, 2023

FR-AM Two LLC

By: /s/ Harry Macklowe

Name: Harry Macklowe

Title: Manager

Chapter 11
Case No.

# BANKRUPTCY RULE 7007.1 CORPORATE OWNERSHIP STATEMENT

Pursuant to Bankruptcy Rule 7007.1, FR-AM Two LLC certifies that it is a private non-governmental party, and has no corporate parent, affiliates and/or subsidiaries which are publicly held.

Dated: New York, New York

October 10, 2023

FR-AM Two LLC

By: /s/ Harry Macklowe

Name: Harry Macklowe

Title: Manager

Internal Revenue Service Centralized Insolvency Operations PO Box 7346 Philadelphia, PA 19101-7346

NY State Attorney General 28 Liberty St New York, NY 10005-1400

NYC Dep't of Finance Legal Affairs 375 Pearl St Apt 27 New York, NY 10038-1441

NYC Dept of Law Attn: Bernadette Brennan, Esq. 100 Church St Rm 5-233 New York, NY 10007-2601

NYS Dep't of Taxation Bankruptcy/Special Procedure PO Box 5300 Albany, NY 12205-0300

Office of the U.S. Trustee 560 Federal Plaza Central Islip, NY 11722

56th And Park (NY) Owner, LLC c/o Robert A. Sacks, Esq. Sullivan & Cromwell LLP 125 Broad Street
New York, New York 10004

Boies Schiller Flexner LLP Attn: Joshua Irwin Schiller, Esq. 55 Hudson Yards New York, NY 10001

56th and Park (NY) Owner Parent, LLC c/o Robert A. Sacks, Esq. Sullivan & Cromwell LLP 125 Broad Street
New York, New York 10004

56th and Park (NY) Manager, LLC c/o Robert A. Sacks, Esq. Sullivan & Cromwell LLP 125 Broad Street
New York, New York 10004

CIM Fund III, L.P. c/o Robert A. Sacks, Esq. Sullivan & Cromwell LLP 125 Broad Street New York, New York 10004

56th and Park (NY) Holdings, LLC c/o Robert A. Sacks, Esq. Sullivan & Cromwell LLP 125 Broad Street
New York, New York 10004

Devin W. Ness, Esq. Herrick Feinstein LLP Two Park Avenue New York, New York 10016

Residential Section 432 Park Cond c/o FirstService Residential P.O. Box 30476 Tampa, FL 33630-3476

Build-Source Corp 4 Court Square, Suite 301 Long Island City, NY 11101

Audio Command Systems Inc 694 Main Street Westbury, NY 11590

Island Architectural Woodwork Inc 31-33 Howard Place Ronkonkoma, NY 11779

Strauss Creative Finishes Inc. 150 West 28th Street, Suite 503 New York, NY 10001

Epic Mechanical Contractors LLC 76-78 Mall Drive Commack, NY 11725

Medco Plumbing Inc. 65-11 Fresh Meadow Lane Flushing, NY 11365

Diverzify (RD Weiss) 865 W. Irving Park Rd Itasca, IL 60143-2021

KHC Architectural Design LLC 233 Broadway, Suite 2430 New York, NY 10279 Spieler & Ricca Electrical Co. Inc. 52-09 Van Dam Street Long Island City, NY 11101

WSP USA Buildings Inc. P.O. Box 21120 New York, NY 10087-1120

Jantile 100 Business Park Drive Armonk, NY 10504

Titan Industrial Services Corp. 6600 Queens Midtown Expressway Maspeth, NY 11378

Crina Arghirescu Rogard Design LLC 400 Madison Street Brooklyn, NY 11221

Gillman Consulting Inc. 40 Worth Street, Suite 600 New York, NY 10013-2904